



---

## 2009 Decisions

## Opinions of the United States Court of Appeals for the Third Circuit

---

2-18-2009

# Brooks v. Wachovia Bank NA

Follow this and additional works at: [https://digitalcommons.law.villanova.edu/thirdcircuit\\_2009](https://digitalcommons.law.villanova.edu/thirdcircuit_2009)

---

### Recommended Citation

"Brooks v. Wachovia Bank NA" (2009). *2009 Decisions*. 1861.  
[https://digitalcommons.law.villanova.edu/thirdcircuit\\_2009/1861](https://digitalcommons.law.villanova.edu/thirdcircuit_2009/1861)

This decision is brought to you for free and open access by the Opinions of the United States Court of Appeals for the Third Circuit at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in 2009 Decisions by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

**NOT PRECEDENTIAL**

UNITED STATES COURTS OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 07-4026

---

RALPH BROOKS, JR.  
ON BEHALF OF HIMSELF AND ALL  
OTHERS SIMILARLY SITUATED

Appellant

v.

WACHOVIA BANK, NA; WACHOVIA CORPORATION;  
EVERGREEN INVESTMENT SERVICES, INC.;  
EVERGREEN INVESTMENT MANAGEMENT COMPANY, LLC;  
EVERGREEN DISTRIBUTORS, INC.

---

On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D. C. No. 06-cv-00955)  
District Judge: Hon. James T. Giles

---

Argued on February 5, 2009

Before: RENDELL and ROTH, Circuit Judges  
HAYDEN\*, District Judge

---

\*Honorable Katharine S. Hayden, United States District Judge for the District of New Jersey, sitting by designation.

(Opinion filed: February 18, 2009)

Ann Miller, Esquire **(Argued)**  
Ann Miller, LLC  
834 Chestnut Street, Suite 206  
Philadelphia, PA 19107

Richard D. Greenfield, Esquire  
Greenfield & Goodman  
780 Third Avenue, 48<sup>th</sup> Floor  
New York, NY 10017

Counsel for Appellant

Donna M. Doblick, Esquire **(Argued)**  
Mary J. Hackett, Esquire  
Gregory B. Jordan, Esquire  
Reed Smith, LLP  
435 Sixth Avenue  
Pittsburgh, PA 15219

Counsel for Appellee

---

O P I N I O N

---

**ROTH, Circuit Judge:**

This case centers on the preclusive effect of a 2003 settlement between defendant Wachovia Bank and the *Parsky* plaintiffs, a class of fund beneficiaries that included instant plaintiff Ralph Brooks. *See Parsky v. Wachovia Bank*, Feb. 2000 Term, No. 000771 (Phila. County Ct. Com. Pl.). The District Court dismissed Brooks's class action claims, finding

them barred by the broad release executed in *Parsky*. On appeal, Brooks argues that the District Court misrepresented the allegations in his complaint, took too broad a view of the *Parsky* release, and engaged in improper factfinding. Brooks also challenges the adequacy of the notice he received concerning the *Parsky* release.

The District Court had jurisdiction pursuant to 18 U.S.C. § 1964, 28 U.S.C. § 1331, 28 U.S.C. § 1332(d), and 28 U.S.C. § 1367. We have jurisdiction pursuant to 28 U.S.C. § 1291. We have carefully considered the appellate briefs of the parties and the record, including the very thorough memorandum opinion of the District Court. For essentially the reasons stated by the District Court, we will affirm its September 14, 2007, dismissal of Brooks's claims.